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Letter dated 19 September 2016 from the Secretary-General addressed to the President of the Security Council

Pursuant to Security Council resolution 2303 (2016), I have the honour to transmit a report on proposals to enable the United Nations to facilitate the deployment of the African Union observers and on modalities for cooperation between the United Nations police component and the African Union observers. The report was prepared by my Special Adviser, in consultation with the African Union and the Office of the United Nations High Commissioner for Human Rights, as well as with other relevant United Nations departments and offices (see annex).

I should be grateful if you could bring the present letter and its annex to the attention of the members of the Security Council.

(*Signed*) **BAN** Ki-moon

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Annex

Report of the Secretary-General on proposals to enable the United Nations to facilitate the deployment of the African Union observers in Burundi and on modalities for cooperation between the United Nations police component and the African Union observers

I. Introduction

1. The present report is submitted pursuant to paragraph 11 of Security Council resolution 2303 (2016), in which the Council requested me to report to the Council within 30 days, in close coordination with the African Union, on proposals to enable the United Nations to facilitate the deployment of the African Union observers and on modalities for cooperation between the United Nations police component, as referred to in paragraph 13 of the resolution, and the African Union observers, taking into account their comparative advantages and within their respective mandates, in compliance with the United Nations standards and practices and consistent with the human rights due diligence policy on United Nations support to non-United Nations security forces. In preparing the report, I requested my Special Adviser to consult with the African Union and the Office of the United Nations High Commissioner for Human Rights (OHCHR), as well as with other relevant United Nations departments and offices.

II. United Nations and African Union engagement in Burundi

2. The United Nations political engagement in Burundi, as mandated by the Security Council in its resolution 2279 (2016), is to work with the Government of Burundi and other concerned stakeholders to support the inter-Burundian dialogue, as referred to in paragraph 5 of that resolution, including in the areas of security and rule of law. The options for a United Nations police component that were submitted in my letter to the Security Council on 15 April (S/2016/352) were developed on the understanding that it would contribute to the creation of an environment conducive to political dialogue by averting a further deterioration of the security situation and decreasing the occurrence of human rights violations. Political engagement through genuine and inclusive inter-Burundian dialogue has been recognized by the Council as the only means to a peaceful resolution of the current crisis.

3. In paragraph 13 of its resolution 2303 (2016), the Security Council requested me to establish a United Nations police officers component in Burundi for an initial period of one year to monitor the security situation and to support OHCHR in monitoring human rights violations and abuses, under the authority of the Office of my Special Adviser, in coordination with the African Union human rights observers and military experts in Burundi, in accordance with their respective mandates. The Council authorized a ceiling of 228 United Nations individual police officers for the component, headed by a United Nations senior police adviser, under the authority of my Special Adviser, to be deployed in Bujumbura and throughout Burundi. In a press communiqué issued on 2 August 2016, the Government of Burundi objected to the adoption of resolution 2303 (2016), and specifically rejected the deployment of up to 228 police officers (S/2016/679, annex). This position was subsequently

reiterated in a letter dated 18 August 2016 addressed to me by the Minister of External Relations and International Cooperation.

4. In paragraph 10 of its communiqué of 13 June 2015 (PSC/PR/COMM.2 (DXV)), the African Union Peace and Security Council decided on the immediate deployment of African Union human rights observers and other civilian personnel, as previously agreed in its communiqué of 14 May 2015 (PSC/PR/COMM (DVII)), to monitor the human rights situation on the ground, report violations of human rights and international humanitarian law and undertake local conflict prevention and resolution activities. It also decided on the deployment of African Union military experts to verify the process of disarming militias and other armed groups and to submit regular reports on the implementation of the disarmament process.

5. The African Union Peace and Security Council further decided, in its communiqué of 17 October 2015 (PSC/PR/COMM (DLI)), to increase the number of human rights observers and military experts deployed to a total of 100 personnel, including a police component, and requested the Chairperson of the African Union Commission on the situation in Burundi to submit to the Council monthly reports on the human rights situation and acts of violence in Burundi, on the basis of the reports of the human rights observers and the military experts. Following the visit of the African Union high-level delegation to Burundi on 25 and 26 February 2016, the Peace and Security Council, in its communiqué of 9 March 2016 (PSC/PR/COMM (DLXXXI)), welcomed the consent of the Burundian authorities to increase to 100 each the number of human rights observers and military experts. The Security Council, in its resolution 2303 (2016), welcomed the consent of the Burundian authorities to allow for the deployment of 100 human rights observers and 100 military experts, while expressing concern over the significant delays in their deployment.

6. As of September 2016, the African Union had deployed 47 human rights observers and 23 military experts to Burundi, all of whom are operating in Bujumbura, with temporary deployments to other provinces. Due to financial and logistical constraints, along with security concerns, the African Union has not been able to fully operate throughout the country or to deploy the available additional personnel. Furthermore, little progress has been made towards the signature of a memorandum of understanding between the African Union and the Government of Burundi. Nevertheless, the African Union confirmed that the Government has not restricted the observers' access to sites in the country.

7. In a note verbale to the United Nations dated 11 April 2016, the African Union Commission requested that the United Nations give consideration to the provision of on-the-ground support to the African Union human rights observers and military experts in the areas of mobility, co-location and communication-related and other equipment. In a further note verbale dated 23 August 2016, the Commission proposed four areas in which support to the African Union observers could be considered, namely: (a) financial support including salaries and logistics; (b) capacity-building; (c) technical support in the area of disarmament; and (d) support for mobility and communications (the note verbale of 23 August 2016 is attached as an enclosure to the present report). The African Union Commission reiterated these proposals in a videoconference held with the Secretariat on 6 September 2016, at which it emphasized that the payment of salaries and

allowances as a priority for the African Union in order to enable its observers to operate on the ground. It was agreed that discussions on further details would continue. Consultations between the Office of my Special Adviser, the African Union Office for the Great Lakes and the Heads of the African Union human rights observers and military experts in Bujumbura will also continue.

III. Current cooperation between the United Nations and the African Union in Burundi

8. The United Nations is already cooperating closely with the African Union presence in Burundi through a number of initiatives and has supported the deployment of the African Union observers in the following ways.

9. In the area of financial support, the United Nations is currently providing financial support to the deployment of the African Union human rights observers through the United Nations Peacebuilding Fund. The Fund's project, "African Union Human Rights Observers support in Burundi", provided $2.25 million to fund the deployment of 32 human rights observers from April to September 2016. This support is in addition to the funding provided by the European Union for the deployment of the African Union military experts and human rights observers. If there are specific gaps in funding that are identified by the African Union, the United Nations could provide further assistance to the Union by trying to mobilize additional resources from donors.

10. In the area of technical support, OHCHR is already providing support to the African Union human rights observers in the areas of training and methodology. Occasional support is also provided to African Union human rights observers in carrying out their functions. This support is being provided from within OHCHR's limited capabilities. The OHCHR office is presently not resourced to provide wide-ranging technical support and expertise to any African Union human rights observer or military expert deployment beyond the current level.

11. In the area of diplomatic and political support, my Special Adviser has been coordinating and working closely with the African Union Special Representative for the Great Lakes Region and Head of the African Union Liaison Office in Bujumbura. He has also used his good offices to urge the Government of Burundi to conclude the signing of the memorandum of understanding with the African Union on the status of its human rights observers and military experts. Moreover, the Office of my Special Adviser and the African Union Liaison Office have established technical level mechanisms for regular consultation and coordination. In this context, the African Union and the United Nations are jointly supporting the East African Community-facilitated dialogue process in the areas of technical and substantive assistance. My Special Adviser's Office has been awarded $1 million in financial support from the United Nations Peacebuilding Fund to fund this process. Going forward, this partnership between the African Union and the United Nations may be further reinforced.

12. In addition, the United Nations has provided 16 vehicles, communication radios, office equipment and other assets to the African Union observers in the

context of the liquidation process of the United Nations Electoral Observer Mission in Burundi (MENUB) in December 2015.

IV. Proposals to facilitate the deployment of African Union observers

13. The following proposals respond to the areas identified by the African Union in which it considered that the United Nations could facilitate the deployment of its observers. While the provision of support to the African Union for this purpose is independent of the deployment of a United Nations police component, it is important to recognize that the extent and modes of support that the Organization could give for this purpose could change with the deployment of the United Nations police.

14. In the area of operational support, and within the existing mandates from the Security Council on cooperation with the African Union, I will make the necessary arrangements to offer initial support to the African Union in the following key areas: Headquarters-based (in New York and Addis Ababa) support to the planning activities of the African Union and its efforts to generate additional personnel for its observer presence; engagement with United Nations global systems contractors to extend to the African Union the same contractual pricing, terms and conditions that are available to the United Nations for orders placed directly with them by the African Union for the support of its observers; and access to existing United Nations radio communications networks in Burundi.

15. Consistent with resolution 2303 (2016), support would be predicated on compliance with United Nations standards and practices, including transparency and accountability, and with the human rights due diligence policy on United Nations support to non-United Nations security forces, and would be subject to the availability of sufficient resources.

16. While the steps described above will be helpful, they will not provide predictable and sustainable support to the African Union on the ground. Given the current mandate of my Special Adviser, his Office is not in a position to provide material support on a predictable and sustainable basis to the African Union observers. The Security Council may therefore wish to consider authorizing innovative arrangements to effectively support the deployment of African Union observers.

17. Building on the experiences in other contexts, including in Somalia, the Security Council could consider providing the Secretary-General with a clear mandate to provide a targeted logistical support package to the African Union to facilitate the deployment of its observers. Such a package would have, as a key defining principle, parity of support between United Nations and African Union personnel covering all items provided in the support package. It would be provided in strict compliance with the human rights due diligence policy on United Nations support to non-United Nations security force, subject to a memorandum of understanding between the United Nations and African Union and in line with United Nations standards and practices. Key elements could consist of office premises, associated facilities management services, transportation, fuel, communications and information technology equipment, medical and medical

evacuation services and personal protection equipment. Since the package would be focused on the provision of operational support, it would not include direct payments of stipends to African Union personnel.

18. Should the Security Council decide on such a mandate, the capacities of the Office of my Special Adviser would need to be strengthened accordingly in order to enable the Office to effectively deliver on its mandate.

V. Modalities for cooperation between the United Nations police component and the African Union observers

19. There are two potential approaches to cooperation and coordination between the African Union, OHCHR and the United Nations police component under the authority of the Office of my Special Adviser. The first approach would be to set up a joint operations cell, based on the development of a joint strategy, planning, operations, analysis and reporting. This approach could be difficult to implement, however, given the different mandates and reporting requirements of the United Nations police component, OHCHR, the African Union military experts and human rights observers. Other factors, such as the differences in the duration of respective mandates and in technical approaches to monitoring, investigating and reporting human rights violations, would make a fully integrated approach difficult without the harmonization of policies, capacities and skills, which would take time to develop. It would be necessary to discuss this approach further in the context of the broader partnership framework between the African Union and the United Nations.

20. The second approach could take a hybrid form of cooperation and coordination, with both structured and ad hoc arrangements. Through this approach, a joint steering committee could be created to facilitate the implementation by each element of its respective mandate by coordinating strategies and operations. Information could be systematically shared on planning, findings and analysis through regular meetings and/or desk-to-desk exchanges. Ad hoc activities, such as joint assessment missions to specific regions, could also be undertaken.

21. Monitoring the security situation is a task shared by both the African Union and the United Nations. Other options through which both organizations could reinforce and coordinate this monitoring responsibility include the possible establishment of a common early warning system to identify and monitor crisis triggers, trends and scenarios. Such a mechanism would assist in preparing a response to the request of the Security Council, in its resolution 2303 (2016), that I provide written reports immediately to the Council, as necessary, on grave security incidents, violations of international humanitarian law and violations or abuses of human rights, as applicable, of which the United Nations police component in Burundi, together with OHCHR, has knowledge.

VI. Observations

22. The deployment of the African Union military experts and human rights observers, as well as that of the United Nations police component, depend on the consent of the Government of Burundi and its collaboration with the African Union and the United Nations. I urge the Security Council to continue to engage with the Government to secure its full cooperation for the deployment and activities of the African Union and the United Nations in Burundi and to allow full and unhindered access by United Nations and African Union personnel throughout the country in fulfilment of its mandated responsibilities

23. Alongside efforts to secure Government cooperation in order to deploy the United Nations presence, every effort should be made to support the deployment of the African Union observers. An enhanced and strengthened presence of the observers will not only contribute to promoting human rights but also enhance the situational awareness and early warning capacity of national, regional and international stakeholders, enabling them to address emerging security and human rights concerns. This is in line with the overall objective of creating an environment conducive to political dialogue by averting a further deterioration of the security situation and decreasing the occurrence of human rights violations. The United Nations will also seek to enhance other modes of cooperation at the political and operational level, including continued cooperation between the African Union and the United Nations in support of the East African Community-facilitated, African Union-endorsed inter-Burundian dialogue process.

24. As the Security Council considers these proposals, I will proceed with strengthening the Office of my Special Adviser, in consultation with the Government of Burundi, as requested by the Council in paragraph 8 of resolution 2303 (2016).

Enclosure

Note verbale dated 23 August 2016 from the Commission of the African Union addressed to the Secretariat of the United Nations

The Commission of the African Union presents its compliments to the Secretariat of the United Nations and has the honour to refer to the prevailing situation in Burundi.

The Commission appreciates the continued support of the United Nations as manifested in the various Security Council resolutions on Burundi, including resolutions 2248 (2015), 2279 (2016) and 2303 (2016). The Commission welcomes, in particular, resolution 2303 (2016), in which the Council specifically requested the Secretary-General to report to the Security Council, in close coordination with the African Union, on proposals to enable the United Nations to support the deployment of the African Union observers. In the same vein, the resolution also called for consultations between the United Nations and the African Union on modalities for cooperation between the United Nations police component, and the Union's observers, taking into account their comparative advantages and within their respective mandates.

Against this background, the Commission wishes to submit the following proposals as a basis for consultations on the envisaged support to the deployment of the African Union observers:

(a) Financial support for the deployment of the authorized strength of the African Union human rights observers and military experts, including salaries and logistics;

(b) Capacity-building for the human rights observers and Military Experts;

(c) Technical support for African Union military experts under their mandate to disarm militias and armed groups;

(d) Support for internal mobility and secured communications.

The African Union Commission proposes to organize a videoconference on 29 or 30 August 2016 with colleagues from the United Nations Secretariat to discuss the details of the support outlined above.